IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.551 OF 2004

Mr. Armando S. Lobo; and his wife,
1. Mrs. Benita A. Lobo;
2. Mr. Raj Kamal Raaj; and his wife,
3. Mrs. Jeshta R. Raaj;
4. Mr. Paul S. Lobo;
5. Ms. Olga S. Lobo;
6. Mrs. Irene S. Quadri; and her husband,
7. Mr. Sayed S. Quadri,
All residents of Mumbai
all represented herein
by their Attorney, Shri Sandesh Naik,
c/o Sapna Real Estate,
Nanu House Varde Valaulikar Road,
Margao-Goa. ..... Petitioners.

Versus

1. State of Goa,
Through its Secretary(Revenue)
having office at Secretariat
Panaji, Goa.

2. The Additional Collector-II,
South Goa District, having
Office at Collectorate Building,
Margao-Goa. .... Respondents

Mr. M.S. Sonak, Advocate for the petitioners.

Mr. P.A. Kamat, Government Advocate for the respondents.

CORAM: A.P. LAVANDE, J.

DATE : 11th March, 2005.

ORAL JUDGMENT(Per LAVANDE, J.)

Heard Mr. Pangam, learned Advocate for the petitioners and Mr. Kamat, learned Government Advocate for the respondents. Rule . Mr. Kamat waives notice for the respondents. By consent heard forthwith.

2. By this petition, the petitioners challenge order dated 24.9.2004 passed by respondent No.1 disposing of an appeal filed under Section 32(2) of the Land Revenue Code. The applicants herein filed an application seeking conversion in respect of property bearing Chalta no.39, of P.T.Sheet No.63 and Chalta nos.27, 118 to 125 of P.T. Sheet no.74 of Margao city admeasuring 5943 sq.metres situated within the City limits of Margao Municipal Council. The said application was filed on 22.9.2003. In terms of section 32(2), the Collector was bound to decide the application within a period of 60 days from the date of receipt of the application and in case of his failure to do so, the applicants had a right to file an appeal to the respondent no.1 who has to dispose of the appeal within a period of 30 days from the date of filing of the appeal.

3. Mr. Pangam, learned Counsel appearing for the petitioners has submitted that instead of passing an order in terms of Section 32(2) of the Land Revenue Code, the appellate authority has remanded the matter back

to the respondent no.1 with a direction to decide the application within a period of 90 days from the date of the order. According to Mr. Pangam the impugned order passed is patently contrary to Section 32(2) of the Land Revenue Code and on this ground only the impugned order deserves to be set aside. Mr. Kamat, learned Government Advocate appearing for the respondents is not in a position to defend the order. I find considerable force in the submission of the learned Counsel for the Petitioner. The respondent no.1 is bound to decide the appeal on merits.

4. Accordingly the impugned order dated 29.4.2004 is quashed and set aside. Respondent no.1 is directed to decide the appeal no.94596 filed by the petitioners herein within a period of 30 days from today. In view of the above, the petition is allowed. Rule is made absolute in the aforesaid terms.

A.P. LAVANDE, J.

vpf.